

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

MOMODOU SALLA)	
)	
Petitioner,)	
)	Civil Action
v.)	No. 04CV10611-MLW
)	
JOHN ASHCROFT,)	
)	
Respondent.)	

**RESPONDENT, JOHN ASHCROFT'S MOTION TO DISMISS THE PETITION AS
MOOT**

Respondent, John Ashcroft, hereby moves to dismiss the instant Petition on the ground that it is moot. As grounds therefore, the Respondent states that the petitioner has been released from custody under conditions of supervised release. See Release Notification, attached hereto as Exhibit 1.

The instant Petition involves allegations that the Petitioner was wrongfully in the custody of the Middlesex County Department of Corrections in New Jersey. Specifically, Petitioner complained of a failure of Immigration officials to have completed a "custody review."

As previously noted, the custody review has been completed and the Petitioner has been released. As such, the instant Petition is moot. When a case is moot--that is, when the issues presented are no longer live or when the parties lack a legally cognizable interest in the outcome--a case or controversy ceases to exist, and dismissal of the action is compulsory. See City of Erie v. Pap's A. M., 529 U.S. 277, 287 (2000); United States Parole Comm'n v. Geraghty, 445 U.S. 388, 395-96 (1980); R.I. Ass'n of Realtors v. Whitehouse, 199 F.3d 26, 34 (1st Cir.1999).

WHEREFORE, the Respondent requests that the instant action be dismissed as moot.

Respectfully submitted,

MICHAEL SULLIVAN
United States Attorney

By: /s/ Mark J. Grady
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CERTIFICATE UNDER L.R. 7.1

The respondent takes the position that L.R. 7.1 requires “counsel” to confer and is not applicable where, as here, the opposing party is *pro se*. Alternatively, counsel for the Respondent respectfully requests leave to file this Motion without a 7.1 conference.

/s/ Mark J. Grady
Mark J. Grady
Assistant United States Attorney

CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that on this 31st day of August, 2004 service of the foregoing Motion has been made upon the Petitioner Momodou Salla, 3 Third Avenue, Woonsocket, RI, 02895 by depositing a copy in the United States mail, postage prepaid.

/s/ Mark J. Grady
Mark J. Grady
Assistant United States Attorney